

NEW CHAPTER
Chapter 21A.XX
PERMITS, EMERGENCY ACTIONS, PERMIT EXCEPTIONS

Sections:

21A.XX.XXX	Permits required [SALT section 73 - New]
21A.XX.XXX	Programmatic permits [SALT section 74 - New]
21A.XX.XXX	Application acceptance [SALT section 75 - New]
21A.XX.XXX	Permit application requirements [SALT section 76 amends and recodifies 16.82.060]
21A.XX.XXX	Additional application requirements [New]
21A.XX.XXX	Permit review and final decision [SALT section 77 - New]
21A.XX.XXX	Permit issuance [SALT section 78 - New]
21A.XX.XXX	Permit duration and renewal [Salt section 79 - New]
21A.XX.XXX	Emergency actions [SAO section 83; SALT Section 80 - New]
21A.XX.XXX	Exceptions [SALT section 82 amends and recodifies 16.82.050]

NOTE: Sections amended are noted in brackets following the title. “SALT” means proposed Site Alteration Code pending at council (Proposed Ordinance 2000-0525). “SAO” means proposed amendments to the Sensitive Areas Ordinance (KCC 21A.24) pending at council (Proposed Ordinance 1999-0353).

1 SECTION 1. A. Sections 2, 3, 4, 6, 7, 8 and 9 of this ordinance should constitute a new
2 chapter in K.C.C. Title 21A.

3 B. K.C.C. 16.82.050 and 16.82.060, each as amended by this ordinance, should all be
4 recodified as sections in K.C.C. chapter 21A.xx (created under subsection A of this section).

5 NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 21A.xx a new
6 section to read as follows: [SALT Section 73]

7 **Permits required.**

8 A. An activity physically altering a site, including clearing and grading activities and
9 forest practices, shall be consistent with and meet the standards in this title unless preempted
10 under chapter 76.09 RCW.

11 B. A person shall not do clearing or grading without first obtaining a clearing and
12 grading permit from the department or having all clearing and grading reviewed and approved by
13 the department as part of another development proposal unless specifically excepted under
14 K.C.C. 16.82.050, as recodified by this ordinance. A separate permit shall be required for each
15 site unless the activity is approved to occur on multiple sites under a programmatic permit issued
16 in accordance with section xx of this ordinance.

17 C. A person shall not do forest practice without first obtaining a clearing and grading
18 permit from the department or having all forest practices reviewed and approved by the
19 department as part of another development proposal unless specifically excepted under K.C.C.
20 16.82.050, as recodified by this ordinance. A separate permit shall be required for each site
21 unless the activity is approved to occur on multiple sites under a programmatic permit issued in
22 accordance with section xx of this ordinance.

D. The permits or approvals issued under this title shall be required regardless of permits or approvals issued by the county or any other governmental agency and do not preclude the requirement to obtain all other permits or approvals.

NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 21A.xx a new section to read as follows: [SALT Section 74]

Programmatic permits. The department shall have the authority to issue programmatic permits subject to the following:

A. A programmatic permit may be issued for any clearing or grading alteration except mineral extraction:

1. That is subject to repetition as part of a maintenance or other program;

2. That has the same or similar identifiable impacts, as determined by the department, each time the alteration is repeated at all sites covered by the permit; and

3. For which standard permit conditions suitable to any and all sites can be developed and implemented.

B. A programmatic permit may be issued for any and all forest practices conducted under a county-approved forest management plan.

C. Programmatic permit conditions shall be uniformly applied to each alteration authorized under the programmatic permit at all locations covered by the permit. The department may require that the applicant develop and propose such uniformly applicable permit conditions as part of the permit application. The department may approve, modify or reject any or all of the applicant's proposed conditions. The department shall not issue a programmatic permit until applicable permit conditions are developed and approved.

D. Alterations authorized under a programmatic permit shall be subject to inspection by the department. The applicant may be required to notify the department each time work subject to the permit is undertaken in order for the department to schedule inspections. In addition, the department may require periodic status reports to be submitted to it by the applicant. The frequency, method and contents of the notifications and reports shall be specified as conditions to the programmatic permit.

E. The programmatic permit is a type of clearing and grading permit and, therefore, shall be subject to the same application, review and renewal requirements as a standard clearing and grading permit. In addition, some programmatic permits are subject to periodic review requirements.

F. If the department determines that the programmatic permit or alterations authorized under the permit are not longer in accordance with law, that the permit does not provide adequate regulation of the alteration, that permit conditions or the manner in which the conditions are implemented are not adequate to protect against the impacts resulting from the alteration or that the site requires site-specific regulation, the department may require permit revision, impose new permit conditions or otherwise modify the programmatic permit or withdraw the permit and require that the applicant apply for a standard clearing and grading permit.

NEW SECTION. SECTION 4. There is hereby added to K.C.C. chapter 21A.xx a new section to read as follows: [SALT Section 75]

Application acceptance. Applicants shall submit to the department an application for a permit in compliance with K.C.C. 16.82.060, as recodified by the ordinance, which shall be reviewed by the department for acceptance according to the following:

67 A. A permit application under this chapter shall not be accepted unless it is completed
68 consistent with K.C.C. 20.20.040 and the permit process and procedures provisions of K.C.C.
69 chapter 20.20.

70 B. A permit application under this chapter shall not be accepted for a site or project that is
71 in violation of county laws and regulations or the conditions of any permit, notice and order or stop
72 work order issues under county laws and regulations except as necessary to accomplish any
73 required restoration or cure.

74 C. A permit application under this chapter shall not be accepted unless accompanied by
75 application for the permits or approvals necessary from King County for the development of a
76 permanently established use permitted for the underlying zone on the portion of the site subject to
77 the permit. The permits in combination shall result in the conversion to the permanently
78 established use.

79 D. A permit application under this chapter shall not be accepted on lands that are
80 classified or designated Timberland under chapter 84.33 RCW unless the applicant demonstrates
81 that all payments and penalties resulting from the change in use under RCW 84.34.080 have
82 been paid.

83 E. No permit application under this chapter shall not be accepted for six years from the
84 date of the activity or the date the violation was noticed, whichever is later, on lands cleared or
85 graded in accordance with a Class II, III or IV special forest practice, as defined in chapter 76.09
86 RCW, or on lands cleared or graded without state forest practices or county authorization, if the
87 application is for a project that includes: the subdivision of land; preparation for or construction
88 of residential or commercial buildings or accessory structures to the buildings; other facilities not
89 directly necessary for forestry, unless under time-limited leases totaling less than six thousand

square feet combined; or other proposals in conflict with or inconsistent with ongoing forestry; unless:

1. The applicant demonstrates that the clearing was consistent with the Conversion Option Harvest Plan reviewed and approved by King County and incorporated as a condition of the state's forest practice permit or

2. The director determines that:

a. the applicant was the unknowing subject of criminal trespass, timber theft or fraud, and has a legal case directly related to the activity subject to the moratorium either resolved in favor of the subject or pending and active;

b. the applicant demonstrates that those portions of the clearing not in compliance with all applicable King County regulations can be fully restored to the extent that functions will be improved over those existing before the clearing; and

c. the restoration will be required through an approved mitigation plan.

SECTION 5. Ordinance 1488, Section 7, as amended, and K.C.C. 16.82.060 are each hereby amended to read as follows: [SALT Section 76]

Permit application requirements. ~~((Except as exempted in K.C.C. 16.82.050, no person shall do any clearing or grading without first obtaining a clearing and grading permit from the director. A separate permit shall be required for each site and may cover both excavations and fills.))~~

A. ~~((Application.))~~ To obtain a permit, the applicant shall first file an application ~~((therefor))~~ in writing on a form ~~((furnished for that purpose. The director shall prescribe the form by which application is made. No application shall be accepted unless it is completed consistent with the requirements of this chapter and the permit process and procedures chapter of K.C.C. Title~~

20. I)) prescribed by the department that, in addition to the requirements of K.C.C. 20.20.040,
((every application)) shall include, at a minimum:

1. Identification and description of the work to be covered by the permit for which
application is made;

2. An estimate of the quantities of work involved by volumn and the total area cleared as
a percentage of the total site area;

3. An identification and description of:

a. property boundaries, easements and setbacks;

b. all critical areas as defined in K.C.C. chapter 21A.-- (created under section xx of this
ordinance) on or adjacent to the site; and

c. all clearing restrictions applicable to the site contained in K.C.C. 16.82.150, as
recodified by this ordinance, critical drainage areas requirements established by administrative
rules or property specific development standards and special district overlays pursuant to K.C.C.
chapter 21A.38.

B. For the purposes of determining the application of time periods and procedures
adopted under K.C.C. chapter 20.20, applications for permits authorized by this chapter shall be
considered a complete application as of the date of submittal or, in the case of applications found
to contain material errors, shall be considered complete as of the date the corrected materials are
submitted.

C. In addition to the information required for an application to be accepted pursuant to
section xx of this ordinance, the following information shall be necessary before the department
can begin review. Review of the application shall not commence until determination by the
department that the materials submitted contain the following:

1. ~~((Identify and describe the work to be covered by the permit for which application is made;~~
2. ~~Describe the land on which the proposed work is to be done, by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed site;~~
3. ~~Identify and describe those sensitive areas as defined in K.C.C. 21A.24 on or adjacent to the site;~~
4. ~~Indicate the estimated quantities of work involved;~~
5. ~~Identify any clearing restrictions contained in K.C.C. 16.82.150 wildlife habitat corridors pursuant to K.C.C. chapter 21A.14, critical drainage areas established by administrative rules or property specific development standards pursuant to K.C.C. chapter 21A.38;~~
6. ~~Be accompanied by p))~~ Plans and specifications ((as required in subsections B. and C.)) that, at a minimum, include:
 - a. a 1:2000 scale vicinity map with a north arrow;
 - b. horizontal and vertical scale;
 - c. size and location of existing improvements on and within fifty feet of the project, indicating which will remain and which will be removed;
 - d. location of all proposed cleared areas;
 - e. existing and proposed contours at maximum five foot intervals, and extending for one hundred feet beyond the project edge;
 - f. at least two cross-sections, one in each direction, showing existing and proposed contours and horizontal and vertical scales; and

g. proposed erosion and sediment control plan as required pursuant to section xx of this ordinance;

~~((7. Designate who the applicant is, on a form prescribed by the department, except that the application may be accepted and reviewed without meeting this requirement when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right of way and the following three requirements are met:~~

~~a. the name of the agency or public or private utility is shown on the application as the applicant;~~

~~b. the agency or public or private utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and~~

~~c. the form designating the applicant is submitted to the department prior to permit issuance;)) and~~

~~((8))2. ((Give such other information as may be required by the director))~~ A completed environmental checklist, if required by K.C.C. chapter 20.44, County Environmental Procedures.

~~((B. Plans and specifications. When required by the director, each application for a grading permit shall be accompanied by six sets of plans and specifications and other supporting data as may be required. The plans and specifications shall be prepared and signed by a civil engineer or landscape architect registered to practice in the state of Washington when required by the director; provided, the director may require additional studies prepared by a qualified soils specialist. If the plans and specifications are returned as a result of permit denial or any other reason, they shall be returned to the applicant.~~

~~C. Information on plans and specifications. Plans shall be drawn to an engineer's scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all other relevant laws, rules, regulations and standards. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following minimum information:))~~

D. Materials in addition to those required in subsection C of this section may be necessary for the department to be able to complete the review. When required by the department, the following materials, where applicable, shall be submitted:

- ~~1. ((General vicinity of the proposed site;~~
- ~~2. Property limits and accurate contours of existing ground and details of terrain and area drainage;~~
- ~~3. L))~~ Higher accuracy in contours and more details of existing terrain and area drainage,
~~((L))~~ limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction;
- ~~((4. Location of all proposed cleared areas;))~~
- ~~((5))~~ 2. Location of any open space tracts or conservation easements if required ((pursuant to)) under:
 - a. K.C.C. 16.82.150, as recodified by this ordinance;
 - b. K.C.C. chapter 21A.14((;));
 - c. K.C.C. chapter 21A.37;
 - ~~((e))~~ d. critical drainage areas((;)); or

~~((d))~~e. property-specific development standards or special district overlays ~~((pursuant to))~~under K.C.C. chapter 21A.38;

~~((f))~~3. Calculations of the total proposed area cleared on site as a percentage of the total site area;

~~((g))~~4. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed work, together with the maps showing the drainage area and the estimated runoff ~~((of))~~ from the area served by any drains;

~~((h))~~5. A determination of whether drainage review applies to the project ~~((pursuant to))~~ under K.C.C. chapter 9.04 and, if applicable, all drainage plans and documentation consistent with the King County Surface Water Design Manual ~~((requirements))~~;

~~((9. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within fifty feet of the property or which may be affected by the proposed grading operations;))~~

~~((10))~~6. ~~((Landscape and rehabilitation))~~ Restoration plan ~~((as))~~ if required ~~((by))~~under K.C.C. ~~((16.82.110))~~chapter 21A.xx, established in section xx of this ordinance;

~~((11))~~7. ~~((Other))~~ Additional information as may be required by the ~~((director))~~ department including studies prepared by qualified specialists as necessary to substantiate any submitted materials and compliance with this title, particularly ~~((; and~~

~~12. If the))~~ when clearing or grading is proposed to take place in or adjacent to ~~((a sensitive))~~ critical areas ~~((as regulated in K.C.C. chapter 21A.24, provide information as required by that chapter))~~.

~~((D. Granting of permits.~~

225 1. ~~The director shall determine if the proposed grading will adversely affect the~~
226 ~~character of the site for present lawful uses or with the future development of the site and~~
227 ~~adjacent properties for building or other purposes as indicated by the comprehensive plan, the~~
228 ~~shoreline master program, and the zoning code.~~

229 2. ~~After an application has been filed and reviewed, the director shall also ascertain~~
230 ~~whether such grading work complies with the other provisions of this chapter. If the application~~
231 ~~and plans so comply, or if they are corrected or amended so as to comply, the director may issue~~
232 ~~to the applicant a grading permit. A grading permit shall be valid for the number of days stated~~
233 ~~in the permit but in no case shall the period be more than two years; provided, that when~~
234 ~~operating conditions have been met, the permit may be renewed every two years, or less if a~~
235 ~~shorter approval and/or renewal period is specified by the director.~~

236 3. ~~No grading permit shall be issued until approved by federal, state and local agencies~~
237 ~~having jurisdiction by laws or regulations.~~

238 4. ~~Upon approval of the application and issuance of the grading permit, no work shall~~
239 ~~be done that is not provided for in the permit. The director is authorized to inspect the premises~~
240 ~~at any reasonable time to determine if the work is in accordance with the permit application and~~
241 ~~plans.~~

242 5. ~~The permits from the director shall be required regardless of any permits issued by~~
243 ~~any other department of county government or any other governmental agency who may be~~
244 ~~interested in certain aspects of the proposed work. Where work for which a permit is required by~~
245 ~~this chapter is started or proceeded with prior to obtaining the permit, the violator shall be~~
246 ~~subject to such civil penalties as provided in K.C.C. chapter 23.04. However, the payment of~~

~~such civil penalties shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed thereon.))~~

E. Plans and specifications shall be prepared and signed by a civil engineer if they are prepared in conjunction with the proposed construction or placement of a structure, include permanent drainage facilities or propose alterations in steep slope or landslide hazard areas.

F. The department shall determine the number of copies of the required plans, specifications and supporting materials necessary to expedite review and may require submittal materials in alternative formats.

G. The director may waive specific submittal requirements determined to be unnecessary for the acceptance and subsequent review of an application.

H. Any plans, specifications or supporting materials that are returned as a result of permit denial or any other reason, shall be returned to the applicant.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 21A.xx a new section.

Additional application requirements. The applicant for a development proposal shall submit the following as part of a development permit application involving any clearing or grading:

A. Information concerning the land use context, including:

1. Identification of critical areas on the site and fish and wildlife habitat conservation areas mapped within one-quarter mile of the development proposal;

2. Identification of existing development, including structures, clearing and infrastructure, on the site and within one-quarter mile of the development proposal;

269 3. Location and type of vegetative cover on the site and within one-quarter mile of the
270 development proposal; and

271 4. Soils mapping for the site.

272 B. Information assessing the impacts of proposal on:

273 1. Critical areas on the site and mapped within one-quarter mile of the development
274 proposal; and

275 2. Existing native vegetation on the site and mapped within one-quarter mile of the
276 department proposal.

277 C. An analysis of how the development proposal avoids or minimizes impacts to the areas
278 identified in subsection B. of this section.

279 D. An analysis of how the proposal complies with the following standards:

280 1. If the development is proposed on a parcel located outside the urban growth area, a
281 minimum of sixty-five percent native vegetation or other open space on the parcel shall be set aside
282 and remain undeveloped, if not already developed. The area contained within any critical areas,
283 including any mapped priority habitats, shall be considered in determining whether the sixty-five
284 percent requirement for native vegetation or open space is met. To the maximum extent
285 practicable, the native vegetation and open space shall be spatially connected to critical areas
286 located on the parcel or on adjacent parcels.

287 2. If the development is proposed on a parcel located outside the urban growth area, a
288 maximum of ten percent effective impervious surface shall be allowed on the parcel. If the amount
289 of existing effective impervious on the parcel exceeds ten percent, new effective impervious
290 surfaces shall not be allowed.

3. To the maximum extent practicable, new structures or site disturbance shall be located within or adjacent to existing developed areas.

4. Any new development, including any clearing and grading, shall be located as far from any critical areas on the lot or on adjoining lots, to the maximum extent practicable;

5. To the maximum extent practicable, any new development shall minimize fragmentation of vegetative cover on the site and vegetative cover within one-quarter mile of the development site. Any proposed fragmentation shall apply the following priorities of vegetative cover types: existing native forest, existing shrub/scrub, existing native grassland or meadows and non-native shrub/scrub. Fragmentation shall be determined by the ratio of the amount of edge created by clearing proposed by the development to the total area of the patch. Lower ratios are preferred;

6. To the maximum extent practicable, new development or site disturbance shall maintain connectivity between vegetative cover types on the site and similar vegetative cover types within one-quarter mile of the development site. Connectivity between aquatic areas and wetlands, aquatic areas and forest and wetlands and forest shall be given priority consideration; and

7. Any new development shall minimize intrusion into areas of native vegetation

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 21A.xx a new section to read as follows: [SALT Section 77]

Permit review and final decision.

A. The department shall review permit applications and may impose conditions on permit approval as needed to mitigate identified project impacts and shall deny applications that are inconsistent with the provisions of this title and any other applicable regulations. For permit applications that are within the shoreline jurisdiction or require a shoreline management

substantial development permit, the conditions necessary to comply with the King County shoreline management program, including but not limited to the shoreline management substantial development permit conditions, shall be incorporated into the conditions of any permit issued under this chapter and shall be subject to the inspection and enforcement procedures authorized under this title.

B. Consistent with permit process and procedures provisions of K.C.C. chapter 20.20, including public notice procedures, the department shall review and provide a final decision to approve, condition or deny permits based on compliance with this title and any other applicable regulations.

C. The department may combine the review of the permit application with any other permits or approvals necessary for the development proposal.

D. Any decision to approve, condition or deny a development proposal based on this title and any other applicable regulations may be appealed according to and as part of the appeal procedure for the permit or approval involved as provided in K.C.C. 20.20.020.

NEW SECTION. SECTION 8. There is hereby added to K.C.C. chapter 21A.xx a new section to read as follows: [SALT Section 78]

Permit issuance.

A. The director may issue a permit to the applicant if the director determines that:

1. The proposed alteration will not adversely affect the character of the site for present lawful uses or for future development of the site and adjacent properties consistent with the King County comprehensive plan, the King County shoreline master program and the zoning code K.C.C. Title 21A; and

2. The work complies with the other provisions of this title.

B. A notice to proceed shall not be issued for an approved permit until all federal, state and local agencies having jurisdiction under laws or regulations have approved the work or provided formal consultation.

C. Upon approval of the application and issuance of the permit, work shall not be done that is not provided for in the permit.

NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 21A.xx a new section to read as follows: [SALT Section 79]

Permit duration and renewal.

A. A clearing and grading permit shall be valid for the number of days stated in the permit but the period shall not be more than two years. A permit shall not remain valid after the permitted activity has been completed, the site has been permanently stabilized and all required mitigation or restoration has been completed, monitored and accepted.

B. If the department determines that operating conditions and performance standards have been met and that the permit conditions are adequate to protect against the impacts resulting from the permitted activity, the permit may be renewed in two year increments, or less if a shorter approval or renewal period is specified by the department. Additional requirements applicable to renewal of programmatic permits are set forth in section xx of this ordinance.

C. If the department determines that activities regulated under permits issued for mineral extraction in accordance with K.C.C. chapter 21A.22 or for waste materials processing operations in accordance with K.C.C. chapter 21A.xx [New Chapter: Waste Materials Processing Operations] do not comply with permit conditions or operating standards during a renewal review, a periodic review may be required.

359 NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 21A.xx a new
360 section to read as follows: [SAO Section 83; SALT Section 80] [Amended]

361 **Emergency actions.** Unless otherwise provided, activities or alterations, including
362 alterations to critical areas and critical area buffers, requiring a permit under this chapter
363 constituting emergency actions may be undertaken, and noncompliance with this title and
364 administrative rules adopted under this title at the time of the activities or alterations shall not
365 constitute a violation, if the following are complied with:

366 A. The department shall be notified before the alteration or, if prior notification is not
367 possible, no later than forty-eight hours after the alteration. Within forty-eight hours of receiving
368 the emergency notification, excluding weekends and holidays, a pre-application conference shall
369 be scheduled to occur within the following thirty days. Tribal notice, when required by K.C.C.
370 21A.01.025, shall also be provided;

371 B. The department shall confirm, in a written decision, that the alteration was an
372 emergency action, including that:

373 1. There was imminent danger or risk to the public health, safety and welfare or to
374 persons or property;

375 2. The emergency was unanticipated and not caused by the inaction or action of the
376 applicant;

377 3. Immediate emergency action was necessary; and

378 4. The emergency action was in direct response to and did not exceed the dangers and
379 risks posed by the emergency.

380 C. All decisions made under this section shall be compiled by the director and made
381 available for public inspection.

D. At the pre-application conference, the department shall establish the date by which all required permit applications and other materials or information, including a critical area report, shall be submitted.

E. Corrective action, as determined by the department, shall be completed in compliance with the corrective action requirements of K.C.C. chapter 21A.xx (created under section xx of this ordinance) for any alterations made during the emergency that are not in compliance with the requirements of this title; and

F. Mitigation, as determined by the department, shall be completed in compliance with the mitigation requirements of K.C.C. chapter 21A.xx (created under section xx of this ordinance).

SECTION 11. Ordinance 1488, Section 6, as amended, and K.C.C. 16.82.050 are each hereby amended to read as follows: [SALT Section 82][Amended]

~~((Clearing and grading permit required--)) Exceptions. ((A. No person shall do any clearing or grading without first having obtained a clearing and grading permit from the director except for the following:~~

~~1. An on-site excavation or fill for basements and footings of a building, retaining wall, parking lot, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure;~~

~~2. The depositing or covering of any garbage, rubbish or other material at any solid waste facility operated by King County;~~

3. ~~Maintenance of existing driveways or private access roads within their existing road prisms, provided that the performance and restoration requirements of this chapter are met and best management practices are utilized to protect water quality.~~

4. ~~Any grading within a publicly owned road right of way;~~

5. ~~Clearing or grading by a public agency for the following routine maintenance activities:~~

a. ~~Roadside ditch cleaning provided the ditch does not contain salmonids;~~

b. ~~Pavement maintenance;~~

c. ~~Normal grading of gravel shoulders;~~

d. ~~Maintenance of culverts;~~

e. ~~Maintenance of flood control or other approved surface water management facilities;~~

f. ~~Routine clearing within road right of way.~~

6. ~~Any clearing or grading for roads within a preliminary or finally approved residential plat which has been approved by the director and for which a financial guarantee has been posted;~~

7. ~~Maintenance or reconstruction of the facilities of a common carrier by a rail in interstate commerce within its existing right of way; provided restoration is consistent with the requirements of Section 16.82.110; provided that this exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24.~~

8. ~~Cemetery graves; provided that this exception does not apply except for routine maintenance if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24;~~

9. ~~Clearing or grading within a preliminarily or finally approved residential plat not involving any excavation exceeding five feet in vertical depth or any fill exceeding three feet in~~

vertical depth, regardless of the amount of material to be removed; provided that this exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 or an area placed into tracts or easements pursuant to 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise exempt under K.C.C. 21A.24;

10. Excavation less than five feet in vertical depth not involving more than one hundred cubic yards of earth or other material on a single site; provided that the exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 or an area placed into tracts or easements pursuant to 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise exempt under K.C.C. 21A.24;

11. Fill less than three feet in vertical depth not involving more than one hundred cubic yards of earth or other material on a single site; provided that the exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 or an area placed into tracts or easements pursuant to 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise exempt under K.C.C. 21A.24;

12. Minor stream restoration projects for fish habitat enhancement by a public agency, utility or tribe as set out in K.C.C. 21A.24.

13. Clearing or grading for construction of livestock manure storage facilities or associated nonpoint source pollution facilities designed to the standards of and approved in a conservation plan by the King County conservation district, and constructed and maintained to those standards or livestock flood sanctuaries constructed and maintained to the standards

approved by the Soil Conservation Service and conservation district and the best management practices approved by King County.

~~14. Clearing and grading, performed as Class I, II, III or IV Special forest practice in the F (Forestry) zone, that is conducted in accordance with RCW 76.09 and WAC 222.~~

~~15. Any clearing or grading which has been approved by the director as part of a Commercial Site Development permit and for which a financial guarantee has been posted.~~

~~16. Clearing outside of sensitive areas and buffers as regulated in K.C.C. Chapter 21A.24 unless the development proposal site is within an area subject to clearing restrictions contained in: K.C.C. 16.82.150, wildlife habitat corridors pursuant to K.C.C. 21A.14, critical drainage areas established by administrative rule or property-specific development standards pursuant to K.C.C. 21A.38.~~

~~17. Within sensitive areas, as regulated in K.C.C. Chapter 21A.24, the following activities are exempt from the clearing requirements of this chapter and no permit shall be required;~~

~~a. Normal and routine maintenance of existing lawns and landscaping subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. Chapter 21A.24.~~

~~b. Permitted agricultural uses; provided the clearing is consistent with the agricultural exemptions in sensitive areas as regulated in K.C.C. Chapter 21A.24.~~

~~c. Emergency tree removal to prevent imminent danger or hazard to persons or property.~~

~~d. Normal and routine horticultural activities associated with commercial orchards, nurseries, or Christmas tree farms in existence on the effective date of Ordinance 9614 (November 27, 1990) subject to the limitations on the use of pesticides in sensitive areas as set~~

~~out in K.C.C. Chapter 21A.24. This does not include clearing or grading in order to develop or expand such activities.~~

~~e. Normal and routine maintenance of existing public parks and private and public golf courses. This does not include clearing or grading in order to develop or expand such activities in sensitive areas. For the purpose of this subsection, a park is defined as: any real property managed for public use which has been previously maintained as a park or has been developed as a park pursuant to a properly issued permit.~~

~~f. Removal of noxious weeds from steep slope hazard areas and the buffers of streams and wetlands subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. Chapter 21A.24.~~

~~g. Pruning and limbing of vegetation for maintenance of above ground electrical and telecommunication facilities; provided that the clearing is consistent with the electric, natural gas, cable communication and telephone utility exemption in sensitive areas as regulated in K.C.C. Chapter 21A.24.~~

~~h. Class II, III and IV Special forest practices outside of areas zoned F provided they occur on parcels that meet all of the following criteria for long term forestry:~~

~~(1) The parcel is enrolled under the current use taxation program as timber land pursuant to RCW 84.34 or as forest land pursuant to RCW 84.33;~~

~~(2) A long term management plan is approved for the parcel by the Washington Department of Natural Resources;~~

~~(3) The parcel is located within areas designated rural or agricultural by the King County Comprehensive Plan or applicable community plan;~~

~~(4) The parcel is located outside of expansion areas for incorporated rural cities or~~

rural towns and neighborhoods as designated in King County Comprehensive Plan or applicable community plans;

(5) The parcel equals or exceeds 5 acres in size; and

18. Clearing within seismic hazard area, except on slopes greater than 15 percent and subject to clearing restrictions contained in: K.C.C. 16.82.150, wildlife habitat corridors pursuant to K.C.C. 21A.14, critical drainage areas established by administrative rule or property-specific development standards pursuant to K.C.C. 21A.38; and provided the site contains no other sensitive area features, and

19. Clearing within coal mine hazard area, subject to clearing restrictions contained in: K.C.C. 16.82.150, wildlife habitat corridors pursuant to K.C.C. 21A.14, critical drainage areas established by administrative rule or property-specific development standards pursuant to K.C.C. 21A.38; and provided the site contains no other sensitive areas features.

~~B. TEMPORARY PERMITS. The director shall have the authority to issue temporary permits for excavations, processing, quarrying and mining, and removal of sand, gravel, rock and other natural deposits, together with the necessary buildings, apparatus or appurtenances incident thereto for specific jobs on application for highway, road, street, airport construction, flood control and other public works projects. In conjunction with such operations, allied uses such as, but not limited to, rock crushers, concrete batching plants and asphalt batching plants may be authorized by this temporary permit. The director shall also have the authority to issue temporary permits for the removal of existing stockpiles of previously mined material for the reclamation of land to its best use, consistent with the underlying zoning.~~

The department of development and environmental services shall consider the effect of the proposed operation on the county road system and any effect it may have on surface or

~~groundwater drainage and flood control, and shall make such recommendations as are necessary to protect the public interest in this regard.~~

~~The department of development and environmental services shall also consider the effect of the proposed operation on the current and future land use in the area affected by the proposed operation and shall condition permits as necessary to protect the public interest in this regard.~~

~~Temporary permits are good for the life of the contract of the specific job but must be reviewed annually. Each temporary permit site shall be fully restored during the term of the temporary permit, unless the site is subsequently designated with a M zone classification, or included in an unclassified use permit.~~

~~[Editors Note: The following paragraph was adopted by Ordinance 11536; it repeats a portion of K.C.C. 21.54.230 as then stated.]~~

~~Development proposals will be subject to two levels of review standards based on occupancy types—critical facilities and standard structures. The review standards for critical facilities will be based on larger earthquake reoccurrence intervals than the earthquakes considered for standard occupancy structures. The review standards will be set forth in the administrative rules.))~~

The following are excepted from the requirement of obtaining a permit prior to undertaking forest practices or clearing and grading activities:

A. The following activities out of and not altering critical areas or their buffers:

1. Excavation less than five feet in vertical depth that, cumulatively over time, does not involve more than one hundred cubic yards on a single site;

2. Fill less than three feet in vertical depth that, cumulatively over time, does not involve more than one hundred cubic yards on a single site;

541 3. Grading that, cumulatively over time, produces less than five thousand square feet of
542 impervious surface on a single site. For the purpose of this section, replacement of impervious
543 surface within road rights-of-way shall not be considered as producing impervious surface;

544 4. Clearing of less than one acre. This exception shall not apply to activities regulated
545 as a Class IV forest practice under chapter 76.09 RCW or a development proposal site subject to
546 clearing restrictions in or applicable to:

547 a. critical drainage areas established by administrative rules;

548 b. property-specific development standards and special district overlays pursuant to
549 K.C.C. chapter 21A.38; or

550 c. areas with clearing standards pursuant to K.C.C. 16.82.150, as recodified by this
551 ordinance;

552 5. Removal of noxious weeds, Himalayan blackberry (*Rubus discolor*, *R. procerus*) and
553 evergreen blackberry (*Rubus laciniatus*);

554 6. The use of herbicides or other hazardous substances except on a development
555 proposal site which is subject to clearing restrictions in or applicable to:

556 a. critical drainage areas established by administrative rules;

557 b. property-specific development standards and special district overlays pursuant to
558 K.C.C. chapter 21A.38; or

559 c. areas with clearing standards pursuant to K.C.C. 16.82.150, as recodified by this
560 ordinance;

561 7. Clearing or grading within a public road right-of-way; and

562 8. Clearing or grading for the following within the right-of-way of a rail operating in
563 interstate commerce;

564 a. normal and routine maintenance of existing rail facilities; or

565 b. reconstruction of once-existing rail facilities.

566 B. The following activities in or altering critical areas or their buffers:

567 1. Clearing of less than one acre in coal mine, volcanic, seismic or flood hazard areas.

568 This exception shall not apply to activities regulated as a Class IV forest practice under chapter
569 76.09 RCW or on a development proposal site subject to clearing restrictions in or applicable to:

570 a. critical drainage areas established by administrative rules;

571 b. property-specific development standards and special district overlays pursuant to
572 K.C.C. chapter 21A.38;

573 c. areas with clearing standards pursuant to K.C.C. 16.82.150, as recodified by this
574 ordinance; or

575 d. other critical areas or their buffers;

576 2. Clearing in a roadway if the clearing does not involve the use of herbicides or other
577 hazardous substances in steep slope, erosion or landslide hazard areas, fish and wildlife habitat
578 conservation areas, aquatic areas, wetlands or their buffers and if the clearing is consistent with
579 any applicable ditch standards in section 118 of proposed ordinance 1999-0353, as recodified in
580 this ordinance, and administrative rules adopted under that section. This exception shall not
581 apply to clearing of aquatic areas that are used by salmonids or their buffers;

582 3. Removal of noxious weeds. However, in steep slope, erosion or landslide hazard
583 areas, fish and wildlife habitat conservation areas, aquatic areas, wetlands or their buffers,
584 noxious weed removal is excepted only if:

585 a. it is undertaken with hand labor and light equipment and without the use of
586 herbicides or other hazardous substances; and

b. the cleared area is stabilized against erosion and revegetated with native vegetation;

4. Grading in volcanic, seismic, coal mine or erosion hazard areas or in channel

migration areas:

a. within a public road right-of-way except for installation of gas, water, sewer or other pipelines within a coal mine hazard area; or

b. out of a public road right-of-way if:

(1) the excavation is less than five feet in vertical depth and, cumulatively over time, does not involve more than one hundred cubic yards on a single site;

(2) the fill is less than three feet in vertical depth and, cumulatively over time, does not involve more than one hundred cubic yards on a single site; and

(3) the grading produces less than five thousand feet of impervious surface;

5. Grading in a roadway located in a landslide hazard area, except for:

a. excavation for roadway surface replacement; or

b. excavation for the installation, construction or replacement of underground utilities;

6. Grading in a roadway located in a steep slope hazard area, fish and wildlife habitat conservation area or in the buffer of a steep slope hazard area, wetland or aquatic area. In the buffer of any aquatic area that is used by salmonids, this exception shall be limited to grading only in the paved width or proper driving portion of the road and shoulders;

7. Fish habitat enhancement projects meeting the criteria in and approved under RCW 75.20.350;

8. Minor aquatic area or wetland restoration by or sponsored by a public agency that has natural resource management as its primary function or a federally-recognized tribe, if:

609 a. the wetland restoration is limited to revegetation of the wetland and its buffer with
610 native vegetation and/or the removal of noxious weeds;

611 b. the aquatic area restoration is limited to placement of weirs, log controls, spawning
612 gravel, woody debris and other specific salmonid habitat improvements, revegetation of the
613 buffer with native vegetation and the removal of noxious weeds;

614 c. the restoration only involves the use of hand labor and light equipment. Helicopters
615 or cranes may be used if they have no contact with or otherwise disturb the critical area and its
616 buffer;

617 d. the restoration does not involve the use of herbicides, pesticides or other hazardous
618 substances except for organic or mineral-derived fertilizers;

619 e. the restoration is not part of a mitigation plan associated with another development
620 proposal and is not corrective action associated with a violation; and

621 f. the restoration results in a net improvement of the aquatic area or wetland system;
622 and

623 9. Scientific sampling for salmonids pursuant to an approved Washington state
624 department of fish and wildlife scientific sampling permit; and

625 C. The following activities occurring in and out of critical areas or their buffers:

626 1. Depositing or covering garbage, rubbish or other material at any solid waste facility
627 operated by King County;

628 2. Excavation of cemetery graves;

629 3. Forest practices including any clearing or grading that is performed as a Class I, II,
630 III or IV Special forest practice in the F (forest) zone and that is conducted in accordance with
631 chapter 76.09 RCW and Title 222 WAC;

632 4. Forest practices including any clearing or grading which are performed as a Class II,
633 III or IV Special forest practice outside the F (forest) zone and which are conducted in
634 accordance with chapter 76.09 RCW and Title 222 WAC if the forest practice occurs on a site in
635 long-term forestry that:

636 a. was not subdivided after January 1, 1960;
637 b. is located outside of urban growth area as designated in the King County
638 comprehensive plan unless there is a long-term management plan approved for the site by the
639 Washington state department of natural resources and a signed affidavit to remain in forestry for
640 a minimum of ten years;

641 c. are reforested in compliance with RCW 76.09.070; or
642 d. has not been or is not proposed to be converted to another use including, but not
643 limited to, a residence on a parcel that cannot be further subdivided;

644 5. Emergency tree removal to prevent imminent danger to persons or property except
645 that in steep slope or landslide hazard areas, fish and wildlife habitat conservation area, wetlands,
646 aquatic areas or their buffers, emergency tree removal is excepted only if the requirements of
647 section 10 of this ordinance are complied with;

648 6. The following horticultural and agricultural activities. To be excepted, the activities
649 listed in subsections a - g must have been in continuous existence since at least November 27,
650 1990 and must be consistent with ditch standards set forth in section xx of proposed ordinance
651 1999-0353, as recodified in this ordinance, and administrative rules promulgated thereunder. For
652 the purpose of this subsection, "continuous existence" includes cyclical operations normally
653 associated with these horticultural and agricultural activities. Any expansion of these activities

in steep slope or landslide hazard areas, fish and wildlife habitat conservation areas, wetlands, aquatic areas or their buffers shall not be excepted under this subsection:

a. mowing hay, grass or grain crops;

b. tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activities for pasture, crops, seed or sod. This exception shall not apply in steep slope or landslide hazard areas;

c. grazing livestock if consistent with livestock standards in sections xx and xx of proposed ordinance 1999-0353, each as recodified in this ordinance, and any administrative rules adopted under those sections;

d. commercial orchards;

e. nurseries except in steep slope or landslide hazard areas;

f. hybrid poplar tree farms;

g. Christmas tree farms; and

h. the conversion back and forth among any of the activities excepted in subsections a - g as long as the conversion does not result in increased adverse impacts to wetlands, aquatic areas or other critical areas;

7. Except in the zero rise and FEMA floodways, landslide and steep slope hazard areas, fish and wildlife habitat conservation areas, wetlands, aquatic areas or their buffers, grading for construction or removal of livestock manure storage facilities or associated nonpoint source pollution facilities designed to the standards of and approved in a conservation plan by the King Conservation District and constructed and maintained to those standards. Grading under this subsection in the flood fringe shall be excepted only if the facility is flood-proofed to the flood protection elevation as defined in K.C.C. chapter 21A.06; and

8. The following normal and routine maintenance activities if the structure, condition or site maintained was constructed or created in accordance with law, if the maintenance does not involve the use of herbicides or other hazardous substances in steep slope, erosion or landslide hazard areas, fish and wildlife habitat conservation areas, aquatic areas, wetlands or their buffers, if the maintenance is consistent with ditch standards in section xx of proposed ordinance 1999-0353, as recodified in this ordinance, and administrative rules promulgated thereunder and if the maintenance does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained:

a. maintenance of cemetery graves;

b. maintenance of lawns and landscaping;

c. maintenance of driveways or private access roads;

d. maintenance of outdoor public park areas, facilities and trails and public and private golf courses;

e. the following maintenance activities in a public road right-of-way by a public or private utility or by a public agency:

(1) roadside ditch maintenance. This exception shall not apply to any aquatic area that is used by salmonids or its buffer;

(2) culvert maintenance. If the culvert is used by salmonids or conveys water used by salmonids, the maintenance shall be limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the area within three feet of the culvert where the maintenance disturbed or damaged the bank or bed and shall not involve the excavation of a new sediment trap adjacent to the inlet; and

699 (3) maintenance of cut or engineered slopes if the maintenance is limited to
700 vegetation maintenance and erosion control and does not involve slope stabilization;

701 f. maintenance of flood control or other drainage facilities maintained by a public
702 agency. This exception shall not apply to any aquatic area or wetland that is used by salmonids
703 or the aquatic area buffer; and

704 g. the following maintenance activities associated with agriculture or horticulture in
705 continuous existence since at least November 27, 1990. For the purpose of this subsection,
706 "continuous existence" includes cyclical operations normally associated with agriculture or
707 horticulture;

708 (1) agricultural ditch maintenance if the maintenance is consistent with the following
709 ditch maintenance standards. This exception shall not apply to any aquatic area that is used by
710 salmonids or the buffer;

711 (a) all maintenance activities shall occur during periods of low water flow,
712 ordinarily between July 15 and September 15. If water is flowing at the time of the maintenance
713 activities, the flow shall be diverted around the area encompassing the activities following the
714 procedures for diversions in the ditch standards set forth in section xx of proposed ordinance
715 1999-0353, as recodified in this ordinance, and administrative rules adopted under that section;

716 (b) excavation shall be in a direction from the upstream portion of the ditch to the
717 downstream portion with the upstream edge of the excavation not exceeding a final grade of six
718 inches drop for every ten feet;

719 (c) the width, depth and side slopes of the ditch shall be configured consistent with
720 requirements determined for the site conditions by the United States National Resources
721 Conservation Service and the King Conservation District;

(d) measures to control erosion shall be taken including, but not limited to, retaining existing vegetation on side slopes to the extent possible, retaining existing vegetation alongside the ditch to filter field runoff, reseeding any exposed soils alongside the ditch, placing and maintaining a permanent filter downstream of the maintenance project consistent with the King County Erosion and Sediment Control Standards and placing and maintaining a silt fence or other similar device in all ditches adjacent to aquatic areas used by salmonids to protect downstream salmonids from erosion; and

(e) excavation spoils taken from a ditch shall not be placed within a critical area or its buffer except that they may be spread evenly in a thin layer across an agricultural field in current use at least twenty-five feet from the edge of any ditch, aquatic area or waterbody. Excavation spoils shall otherwise be immediately removed to an off-site legal disposal area. Temporary stockpiles of excavation spoils may remain on a field for up to nine months if they are covered, seeded or silt-fenced to control erosion and will not divert or impede flood flows within a flood hazard area. Spoils shall be placed as far as practical from the ditch as the operating machinery will allow, though no closer than the edge of any existing vegetated strip immediately adjacent to fields in existing agricultural use;

(2) culvert maintenance. If the culvert is used by salmonids or conveys water used by salmonids, the maintenance shall be limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the area within three feet of the culvert where the maintenance disturbed or damaged the bank or bed and shall not involve the excavation of a new sediment trap adjacent to the inlet; and

(3) maintenance of farm ponds, fish ponds, livestock watering ponds and manure storage facilities that are not connected directly to or draining by surface flow to an aquatic area.